



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 6, 1999

Alan V. Pugh, Esquire
Gavin, Cox, Pugh, Gavin, Etheridge and Wilhoit
119 Worth Street
Asheboro, N.C. 27203

RE: MUR 4797
Sixth Congressional District Republican Party
Collette Hoover, as treasurer

MUR 4798
Randolph County Republican Executive Committee
Laverne A. Williams, as treasurer

Dear Mr. Pugh:

On April 28, 1999, the Federal Election Commission accepted the signed conciliation agreements submitted on your above-referenced clients' behalf in settlement of violations of 2 U.S.C. § 441a and 11 C.F.R. § 102.5, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations. Accordingly, the file in MUR 4797 has been closed and the file in MUR 4798 has been closed as it pertains to your clients.

In MUR 4797, the confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt. Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement in MUR 4797, however, will become a part of the public record.

MUR 4798 will become public within 30 days after it has been closed with respect to all other respondents involved. You are advised that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply in MUR 4798 with respect to all respondents still involved in this matter. The Commission will notify you when the entire file in MUR 4798 has been closed.


MURs 4797 & 4798

Alan Pugh, Esq.

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Enclosed you will find copies of fully executed conciliation agreements for your files. Please note that the first installments of the civil penalties are due within 30 days of the effective date of the conciliation agreements. If you have any questions, please contact me at (202) 694-1650.

Sincerely,


Xavier K. McDonnell
Attorney

Enclosures:

Conciliation Agreements

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Randolph County Republican Executive Committee) MUR 4798
Laverne A. Williams, as treasurer)
)

CONCILIATION AGREEMENT

This matter was initiated by Federal Election Commission ("Commission") based upon information ascertained in the normal course of exercising its supervisory duties. See 2 U.S.C. § 437g(a)(2). The Commission found reason to believe that the Randolph County Republican Executive Committee and its treasurer ("Respondents") violated 2 U.S.C. § 441a and 11 C.F.R. § 102.5(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Randolph County Republican Executive Committee ("Randolph Committee") is a party committee that is not registered with the Commission. The Randolph Committee is a

party executive committee as defined by North Carolina law and is properly registered and files reports with the North Carolina State Board of Elections.

2. Laverne A. Williams is the treasurer of the respondent committee. David Hamilton (deceased) was the treasurer during the time that the events described herein occurred.

3. The Sixth Congressional District (or "6th District") is a political committee within the meaning of 2 U.S.C. § 431(4)(C) that is registered with the Commission and maintains a federal account. The Buncombe County Republican Party ("Buncombe Committee") is a political committee within the meaning of 2 U.S.C. § 431(4)(C) that is registered with the Commission and maintains a federal account. Both the 6th District and the Buncombe Committee are also state party committees that are registered and files reports with the North Carolina State Board of Elections.

4. The Federal Election Campaign Act of 1971, as amended ("the Act") provides that no person or multicandidate committee shall make contributions to a state or local party committee's federal account in any calendar year which in the aggregate exceed \$5,000, and prohibits the state or local committee from knowingly accepting such contributions. 2 U.S.C. § 441a(a) and (f). *See also* 11 C.F.R. § 110.3(b)(3).

5. A state or local party organization that makes contributions and expenditures but does not qualify as a "political committee" must either establish a separate account into which only funds subject to the prohibitions and limitations of the Act shall be deposited and from which all contributions, expenditures or exempted payments shall be made or demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure or exempted payments, it has received sufficient funds subject to the prohibitions of and limitations of the Act to make such contributions, expenditures or payments. 11 C.F.R.

§ 102.5(b)(1). These rules ensure compliance with the contribution limitations at 2 U.S.C.

§ 441a.

6. North Carolina State law does not impose any limitation on the amount of funds that party committees may accept or expend. *See* General Statutes of North Carolina §§ 163-278.

7. The Randolph Committee, in accordance with North Carolina State law, lawfully accepts funds in excess of the limitations imposed by the Act at Section 441a(a).

8. Political committees that are registered with the Commission and which maintain federal accounts, such as the 6th District and Buncombe Committee, are prohibited from accepting into such federal accounts funds in excess of the Act's limitations.

9. Just prior to the 1996 elections, the Randolph Committee sought to purchase communications that would aid Republican candidates running for state election in Alamance and Guilford counties, which are within the Sixth Congressional district. It also sought to purchase communications that would aid Republican candidates running for election in Buncombe County. To avoid questions that would be raised by having the Randolph Committee identified as the sponsor of these communications, the Randolph Committee transferred the funds to the 6th District and the Buncombe Committee so that the recipients could be identified as the sponsors.

10. To carry out the plan explained in paragraph 9 above, the Randolph Committee issued three checks to the 6th District that were deposited in the 6th District's federal account, the only account which it maintained. Specifically, on October 22, 1996, the Randolph Committee issued two checks to the 6th District totaling \$22,425. The 6th District immediately used such funds to pay Advantage Mailing \$22,376 for two voter mailings. The Randolph Committee also issued a \$10,000 check to the 6th District on October 17th, and at that time, the 6th District issued

a check in the same amount for a radio ad that discussed only candidates for state election. All the foregoing communications indicated that they were paid for by the 6th District.

11. Also to carry out the plan referred to in paragraph 9 above, the Randolph Committee issued a \$13,925 check to the federal account of Buncombe Committee on October 23, 1996. The funds were used to purchase a mailing. One page of the mailing contained the picture of and references to U.S. Representative Charles Taylor (N.C.), along with local candidates and identified them as "The Republican Team for Buncombe County." Another page of the mailing, a letter from Representative Taylor in support of a local candidate, appears to contain generic party building and get-out-the vote messages, e.g., "we must work hard in the next few days to make sure Republicans turn out to vote" and a statement by Rep. Taylor that the local candidate "stands for the same kind of traditional Republican principles—conservative principles—that I try to represent in the U.S. Congress." The mailing stated that it was paid for by the Buncombe Committee.

12. Respondents contend: (a) that the purpose of the mailings was to promote Republican candidates for the North Carolina General Assembly; (b) that they were not aware that the funds would be deposited into the federal accounts of the 6th District and the Buncombe Committee; and (c) that the violations were not knowing and willful.

V. Respondents transferred impermissible funds to the federal accounts of the 6th District and Buncombe Committee, in violation of 2 U.S.C. § 441a and 11 C.F.R. § 102.5(a).

VI. 1. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Six Thousand Dollars (\$6,000) pursuant to 2 U.S.C. § 437g(a)(5)(A), such penalty to

be paid as follows:

- a. an initial payment of three thousand (\$3,000) will be paid within thirty (30) days;
- b. the remaining three thousand (\$3,000) will be paid within sixty (60) days;
- c. in the event that any installment payment is not received by the Commission when it becomes due, the Commission may, at its discretion, accelerate the remaining payments and cause the entire amount to become due upon ten (10) days written notice to the Respondents. Failure by the Commission to accelerate the payments with regard to any overdue installment shall not be construed as a waiver of its right to do so with regard to future installments.

2. Respondents will take steps to ensure that they do not transfer funds to any federal account and that they do not finance any communications or activities undertaken for the purpose of influencing any federal election beyond which is permitted by the Act and Commission regulations.

3. Respondents have cooperated fully with the Commission in this matter.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 60 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY:



Lois G. Verner
Associate General Counsel

Date

5/5/99

FOR THE RESPONDENTS



Alan Pugh
Attorney for Respondents

Date

4/5/1999